

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

James Mammone,

Case No. 5:16CV900

Petitioner

v.

**ORDER AMENDING
CERTIFICATE OF
APPEALABILITY**

Charlotte Jenkins, Warden,

Respondent

On review of this court's order granting a certificate appealability on, *inter alia*, the petitioner's claim that trial counsel were ineffective for not retaining a neuropsychologist to evaluate him, it appears that, due to a scrivener's error, I incorrectly stated that petitioner had procedurally defaulted this claim and that the certificate would encompass the question whether this default could be excused. (Doc. 41, PageID 11737, 11738–39).

Because I rejected this ineffective-assistance claim on the merits and did not find that it was procedurally defaulted (*id.*, PageID 11698–11703), it is hereby ORDERED THAT the certificate of appealability be, and the same hereby is, amended to certify the claim that trial counsel were ineffective for not retaining a neuropsychologist to evaluate the petitioner without the attendant question of procedural default that was erroneously certified.

So ordered.

/s/ James G. Carr
Sr. U.S. District Judge